

March 3, 2015

Letter Report 2015-607

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

This letter report provides an update on our assessment of the California Department of Public Health's (Public Health) high risk status. Public Health remains a high-risk agency due to weaknesses in program administration and because it has been slow to implement recommendations. In fact, its unresolved recommendations more than one year old have increased from 23 to 33 since our last high risk report in 2013. More than half of these recommendations have a direct impact on public health and safety and, if not implemented, could adversely affect the State. Public Health's management and program functions are critical to the State's preparation for and response to public health emergencies and prevention of chronic health problems. Consequently, weak performance and accountability at Public Health could adversely affect the health and safety of Californians. Our recent audits have continued to uncover failures by Public Health to perform statutorily required duties.

### **Background on Our State High Risk Audit Program**

State law authorizes the California State Auditor (state auditor) to establish a state high risk audit program and to issue reports with recommendations for improving state agencies or statewide issues it identifies as high risk. State law also authorizes the state auditor to require state agencies identified as high risk and those responsible for high-risk issues to report periodically to the state auditor on the status of the implementation of recommendations made by the state auditor. Programs and functions that are high risk include not only those particularly vulnerable to fraud, waste, abuse, and mismanagement, but also those that have major challenges associated with their economy, efficiency, or effectiveness.

To update our analysis of Public Health's high risk status, we interviewed knowledgeable staff at Public Health with significant related responsibilities to assess their perspectives on the extent of risk we identified and reviewed the efforts underway that they identified as mitigating the risks. We also reviewed reports and other documentation relevant to the issues. We considered a number of qualitative and quantitative factors, as well as whether or not an agency has taken measures to correct previously identified deficiencies. Ultimately, the determination of high risk was based on the independent and objective judgment of the state auditor's professional staff.

## Public Health Continues to Exhibit High-Risk Characteristics

Based on a continued pattern of failing to perform required duties and failing to implement audit recommendations, especially those that have a direct impact on public health and safety, we are keeping Public Health on our high risk list. In our September 2013 high risk report we noted that Public Health had 23 unresolved recommendations from previous audits more than one year old. Of those 23 recommendations, 12 had a direct impact on public health and safety. Our current review revealed that the number of Public Health's unresolved recommendations more than one year old has increased to 33, including 17 with a direct impact on public health and safety. As of January 2015 many of the estimated completion dates Public Health set to implement the unresolved recommendations will not occur until late 2015 and beyond. Thus, even if Public Health eventually implements these recommendations, many of which we made in 2008 and 2010, it will have taken between five and seven years to take needed action.

Further, our review found that 12 of the 17 unresolved recommendations that directly impact public health and safety are over five years old. For example, we released a report in September 2008 regarding Public Health's laboratory field services, recommending that it perform all of its mandated oversight responsibilities for laboratories subject to its jurisdiction, including inspecting licensed laboratories every two years, sanctioning laboratories as appropriate, and handling complaints. However, Public Health has not yet implemented these recommendations. According to Public Health's chief deputy director of operations (operations chief), a high vacancy rate in laboratory field services has hindered its ability to implement the recommendations. The operations chief stated that Public Health is working to address hiring and recruitment challenges to fill those vacant positions.

In addition to a lack of action on recommendations from past audit reports, two more audit reports revealed significant weaknesses in Public Health's program administration. In a July 2013 audit report we found that Public Health had not conducted a significant number of statutorily required licensing visits to developmental centers. As the agency responsible for inspecting health care facilities in California, federal law requires Public Health to perform periodic on-site state licensing inspections, called surveys, of health care facilities, such as the ones at the developmental centers. However, Public Health did not perform 29 of 50 required state licensing surveys. Public Health's failure to conduct required licensing surveys may make the licensing of facilities less meaningful and provides less assurance to residents that these facilities are safe.

Most recently, in an October 2014 audit report, we found that Public Health did not consistently initiate investigations or close complaints about long-term health care facilities within required time frames established in state law, and did not comply with statutory time frames governing appeals of investigative determinations against individuals—nurse assistants and home health aides certified by Public Health—who provide care at those facilities.<sup>1</sup> For example,

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<sup>1</sup> An investigative determination is the resulting decision Public Health makes at the conclusion of its investigation of a complaint against individuals providing care at long-term health care facilities.

Public Health failed to comply with the statutory time frames for hearing appeals within 60 days for all of the 10 appeals we reviewed, in one case taking nearly 1,200 days to hear the appeal. The individuals who are the subject of investigations, and who are appealing Public Health's investigative determinations, are not prohibited from working in facilities until the appeals are adjudicated. Thus, when Public Health does not comply with the required time frames, it may risk the safety and welfare of residents in long-term health care facilities.

Public Health's operations chief explained that the two recent audits described above identified deficiencies in Public Health's licensing and certification program (licensing) and that most of the department's outstanding recommendations involve either licensing or laboratory field services, which represent only two of the over 200 programs within Public Health. The operations chief stated that Public Health takes our outstanding recommendations seriously, but staffing challenges within licensing have hindered its ability to implement many of them. He added that Public Health recently requested 240 additional positions for licensing, which will enable it to more quickly close out its open audit recommendations. The operations chief stated that licensing and laboratory field services need, and are getting, additional focus; however, the challenges found within these areas are not indicative of the department as a whole. Rather, Public Health is a national and statewide leader in numerous areas including preeminent programs addressing chronic diseases and emergency preparedness, as well as well-received improvements in its contracting and zero-based budgeting processes. He added that numerous national and statewide awards and other recognition validate the quality of Public Health's broader efforts to meet its mission. Specifically, he stated that Public Health recently received accreditation by the Public Health Accreditation Board, which is the national accrediting organization for public health departments. Public Health was just the seventh state health department awarded accreditation status, which the operations chief stated is a rigorous process that required Public Health to provide evidence of conformity with 105 measures of quality.

Although we laud Public Health's recent achievement in obtaining accreditation, and are aware of its ongoing efforts to resolve outstanding recommendations, the fact remains that numerous recommendations are still unresolved and we continue to consistently find in our audits of Public Health that it is not performing statutorily required duties. Because of these failures, Public Health remains on our high risk list. We will continue to monitor the risks we have identified in this letter report and the actions Public Health takes to address them. When Public Health's actions, based on our professional judgment, result in significant progress toward resolving or mitigating these risks, we will remove the high risk designation.

We prepared this report under the authority vested in the state auditor by Section 8546.5 of the California Government Code.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA  
State Auditor

Date: March 3, 2015

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